

ROBERT G. MILTON

IBLA 82! 54

Decided November 20, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring unpatented mining claim abandoned and void. CA MC 98389.

Affirmed.

1. Federal Land Policy and Management Act of 1976 -- Recordation of Mining Claims and Abandonment -- Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim -- Mining Claims: Recordation

Under 43 U.S.C. § 1744 (1976) and 43 CFR 3833.1-2 and 3833.2-1, the owner of an unpatented mining claim located on or before Oct. 21, 1976, must file a copy of the official record of the notice of location for the claim and a copy of the current proof of labor as recorded in the office where the notice of location is recorded, with the proper Bureau of Land Management office on or before Oct. 22, 1979. These requirements are mandatory and failure to comply conclusively constitutes an abandonment of the claim by the owner.

2. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Robert G. Milton, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Robert G. Milton appeals the California State Office, Bureau of Land Management (BLM), decision of October 7, 1981, which declared the Sweepstake lode mining claim, CA MC 98389, abandoned and void because no notice of location was filed with BLM within the time prescribed by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2. The decision stated that the Sweepstake claim was located and recorded in Kern County, California, November 22, 1963.

Appellant states the claim was located in 1953 and recorded in Kern County July 17, 1953. Proof of labor has been recorded in Kern County each year since the claim was located, and local property taxes have been paid to Kern County on the claim each year. Copies of the various instruments, notice of location, annual proof of labor, and tax receipts were submitted with the notice of appeal.

[1] Section 314 of FLPMA, as applicable to unpatented mining claims located on or before October 21, 1976, requires that a copy of the official record of the notice of location and evidence of assessment work performed on the claim be filed in the proper office of BLM on or before October 22, 1979, and that a copy of the proof of labor be filed with BLM on or before December 30 of each calendar year thereafter. The statute provides that failure to file such instruments within the time periods prescribed shall be deemed conclusively to constitute an abandonment of the unpatented mining claim. The statutory requirements and consequences are set forth in 43 CFR 3833.1-2, 3833.2-1, and 3833.4(a).

As the subject mining claim was located in 1953, and no copies of the notice of location or evidence of assessment work were filed with BLM on or before October 22, 1979, there has been no compliance with the Federal statutory requirements for recordation of the unpatented Sweepstake lode mining claim. The BLM action in declaring the claim abandoned and void was correct. Failure to comply with the statutory and regulatory requirements governing recordation of unpatented mining claims must result in a conclusive finding that the claim has been abandoned and that it is void. Clyde W. Luke, 53 IBLA 136 (1981); Edward W. Kramer, 51 IBLA 294 (1980); 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4(a).

[2] Appellant may not have been aware of the 1976 law requiring recordation of mining claims with BLM, but that cannot change the result in this case. All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edwin Forsberg, 47 IBLA 235 (1980); 44 U.S.C. §§ 1507, 1510 (1976).

This Board has no authority to excuse noncompliance with statutory requirements or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Recordation of the notice of location and annual proof of labor with the appropriate county recording office does not constitute compliance with the requirements of FLPMA. That Act imposed the requirement for dual recordation in both the local county and with BLM. These are separate and distinct mandatory requirements, and accomplishment of one does not constitute compliance with the other; nor does recording in the county relieve the claimant from the need to record the same instrument with BLM.

Appellant may wish to consult with BLM about the possibility of relocating this claim.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

Bernard V. Parrette  
Chief Administrative Judge

Bruce R. Harris  
Administrative Judge

